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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-181236.2

DATE: June 16, 1981

MATTER OF: Ritch Associates

DIGEST:

Claim for compensation for cancellation of Taylor Grazing Act, 43 U.S.C. § 315 (1976), grazing privileges is denied, since Army intended portion of payments under lease and suspension agreements preceding present condemned leasehold as full compensation for cancellation of grazing permit.

Mr. William G. Ritch, as agent for Ritch Associates (Ritch), an unincorporated association, has filed a ~~claim with our Office~~ for compensation for the loss of grazing privileges on certain lands, now a part of the White Sands Missile Range, New Mexico, in which the Federal Government has condemned a leasehold.

This claim is for the loss of grazing privileges on these lands for the period of July 1, 1970, through June 30, 1980. In our decision, Ritch Associates, B-181236, October 20, 1977, 77-2 CPD 308, we denied a claim for the loss of grazing privileges on these lands for the period ending June 30, 1970. We reach the same result here.

The lands on which Ritch bases its claim include Federal grazing lands previously used by Ritch. The Army has continuously occupied the premises since 1942. Before the Government occupied the premises, Ritch held a permit under the Taylor Grazing Act, 43 U.S.C. § 315 (1976), for the use of the Federal lands in question. Until 1970, the Army held the lands under a series of lease and suspension agreements providing for an annual payment to the owners.

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Since 1970, the Government has occupied the lands under a condemned leasehold. Ritch advises that litigation in the United States District Court for the District of New Mexico to establish the value of the Government's condemned leasehold concluded with the final judgment of the court on February 22, 1980. United States v. 40,021.64 Acres of Land, United States District Court for the District of New Mexico, Civil Action No. 8527-B. Ritch states that the court excluded the claim for loss of grazing privileges from July 1, 1970, to June 30, 1980, from its consideration. We do not have either a complete record of the proceedings or a copy of the court's final opinion before us--nor do we believe they are needed. Assuming the court did exclude the claim for loss of grazing privileges from consideration, there is no basis for our Office to allow the claim.

As noted above, the claim is the same as that considered in Ritch Associates, supra, except that it is for the 10-year period beginning immediately after the period considered in the decision. In denying the claim in our prior decision, we stated that a portion of the payments made by the Army under the lease and suspension agreements was intended to fully compensate Ritch for the cancellation of its grazing permit. The Court of Claims has denied a claim for loss of grazing privileges on the same basis in D.I.Z. Livestock Co. et al. v. United States, 210 Ct. Cl. 708 (1976), cert. denied, 429 U.S. 1023 (1976), cited in our prior decision. The rationale in our prior decision and in D.I.Z. Livestock Co. has equal application here.

Accordingly, the claim is denied.



Acting Comptroller General
of the United States